



General Assembly

Amendment

January Session, 2011

LCO No. 8715

HB0636808715HD0

Offered by:

REP. FOX, 146th Dist.

REP. HOLDER-WINFIELD, 94th
Dist.

To: House Bill No. 6368

File No. 277

Cal. No. 174

"AN ACT CONCERNING THE RETURN OF STOLEN PROPERTY."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective January 1, 2014*) (a) For the purposes of
4 this section:

5 (1) "Custody" means the circumstance when (A) a person has been
6 placed under formal arrest, or (B) there is a restraint on a person's
7 freedom of movement of the degree associated with a formal arrest
8 and a reasonable person, in view of all the circumstances, would have
9 believed that he or she was not free to leave;

10 (2) "Interrogation" means questioning initiated by a law
11 enforcement official or any words or actions on the part of a law
12 enforcement official, other than those normally attendant to arrest and
13 custody, that such official should know are reasonably likely to elicit

14 an incriminating response from the person;

15 (3) "Custodial interrogation" means any interrogation of a person
16 while such person is in custody;

17 (4) "Place of detention" means a police station or barracks,
18 courthouse, correctional facility, community correctional center or
19 detention facility; and

20 (5) "Electronic recording" means an audiovisual recording made by
21 use of an electronic or digital audiovisual device.

22 (b) An oral, written or sign language statement of a person under
23 investigation for or accused of a capital felony or a class A or B felony
24 made as a result of a custodial interrogation at a place of detention
25 shall be presumed to be inadmissible as evidence against the person in
26 any criminal proceeding unless: (1) An electronic recording is made of
27 the custodial interrogation, and (2) such recording is substantially
28 accurate and not intentionally altered.

29 (c) Every electronic recording required under this section shall be
30 preserved until such time as the person's conviction for any offense
31 relating to the statement is final and all direct and habeas corpus
32 appeals are exhausted or the prosecution is barred by law.

33 (d) If the court finds by a preponderance of the evidence that the
34 person was subjected to a custodial interrogation in violation of this
35 section, then any statements made by the person during or following
36 that nonrecorded custodial interrogation, even if otherwise in
37 compliance with this section, are presumed to be inadmissible in any
38 criminal proceeding against the person except for the purposes of
39 impeachment.

40 (e) Nothing in this section precludes the admission of:

41 (1) A statement made by the person in open court at his or her trial
42 or at a preliminary hearing;

43 (2) A statement made during a custodial interrogation that was not
44 recorded as required by this section because electronic recording was
45 not feasible;

46 (3) A voluntary statement, whether or not the result of a custodial
47 interrogation, that has a bearing on the credibility of the person as a
48 witness;

49 (4) A spontaneous statement that is not made in response to a
50 question;

51 (5) A statement made after questioning that is routinely asked
52 during the processing of the arrest of the person;

53 (6) A statement made during a custodial interrogation by a person
54 who requests, prior to making the statement, to respond to the
55 interrogator's questions only if an electronic recording is not made of
56 the statement, provided an electronic recording is made of the
57 statement by the person agreeing to respond to the interrogator's
58 question only if a recording is not made of the statement;

59 (7) A statement made during a custodial interrogation that is
60 conducted out-of-state; and

61 (8) Any other statement that may be admissible under law.

62 (f) The state shall have the burden of proving, by a preponderance
63 of the evidence, that one of the exceptions specified in subsection (e) of
64 this section is applicable.

65 (g) Nothing in this section precludes the admission of a statement,
66 otherwise inadmissible under this section, that is used only for
67 impeachment and not as substantive evidence.

68 (h) The presumption of inadmissibility of a statement made by a
69 person at a custodial interrogation at a place of detention may be
70 overcome by a preponderance of the evidence that the statement was
71 voluntarily given and is reliable, based on the totality of the

72 circumstances.

73 (i) Any electronic recording of any statement made by a person at a
74 custodial interrogation that is made by any law enforcement agency
75 under this section shall be confidential and not subject to disclosure
76 under the Freedom of Information Act, as defined in section 1-200 of
77 the general statutes, and the information shall not be transmitted to
78 any person except as needed to comply with this section.

79 Sec. 2. (*Effective from passage*) The Chief State's Attorney, in
80 conjunction with the Police Officer Standards and Training Council
81 and a representative of the Connecticut Police Chiefs Association,
82 shall, not later than January 1, 2012, establish standards for the
83 equipment to be used in the electronic recording of custodial
84 interrogations pursuant to section 1 of this act, including the
85 transcription of such recording, and for the training of law
86 enforcement personnel in the operation of such equipment."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2014</i>	New section
Sec. 2	<i>from passage</i>	New section